

§ 240.15a-7

§ 240.15a-7 Exemption from the definitions of “broker” or “dealer” for banks for limited period of time.

(a) A bank is exempt from the definitions of the term “broker” under Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) and the term “dealer” under Section 3(a)(5) of the Act (15 U.S.C. 78c(a)(5)) until October 1, 2001; and

(b) A bank is exempt from the definition of the term “broker” under Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) until January 1, 2002, for activities that meet the conditions of an exception or exemption for banks from the definition of the term “broker” except for those conditions of Section 3(a)(4) of the Act (15 U.S.C. 78c(a)(4)) and the rules thereunder relating to compensation of the bank or its employees.

[66 FR 27799, May 18, 2001]

§ 240.15a-8 Exemption for banks from Section 29 liability.

No contract entered into before January 1, 2003 shall be void or considered voidable by reason of Section 29 of the Act (15 U.S.C. 78cc) because any bank that is a party to the contract violated the registration requirements of Section 15(a) of the Act (15 U.S.C. 78o(a)) or any applicable provision of the Act (15 U.S.C. 78a *et seq.*) and the rules and regulations thereunder based solely on the bank's status as a broker or dealer when the contract was created.

[66 FR 27799, May 18, 2001]

§ 240.15a-9 Exemption from the definitions of “broker” and “dealer” for savings associations and savings banks.

Any savings association or savings bank that has deposits insured by the Federal Deposit Insurance Corporation under the FDIA (12 U.S.C. 1811 *et seq.*), and is not operated for the purpose of evading the provisions of the Act (15 U.S.C. 78a *et seq.*), is exempt from the definitions of the terms “broker” and “dealer” under Sections 3(a)(4) and 3(a)(5) of the Act (15 U.S.C. 78c(a)(4) and 15 U.S.C. 78c(a)(5)), based solely on the savings association's or savings bank's status as a broker or dealer on the same terms and under the same conditions that banks are excepted or ex-

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empted, provided that if a savings association or savings bank acts as a municipal securities dealer, it shall be considered a bank municipal securities dealer for purposes of the Act (15 U.S.C. 78a *et seq.*) and the rules thereunder, including the rules of the Municipal Securities Rulemaking Board.

[66 FR 27799, May 18, 2001]

§ 240.15a-10 Exemption of certain brokers or dealers with respect to security futures products.

(a) A broker or dealer that is registered by notice with the Commission pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) and that is not a member of either a national securities exchange registered pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)) or a national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78o-3(a)) will be exempt from the registration requirement of section 15(a)(1) of the Act (15 U.S.C. 78o(a)(1)) solely to act as a broker or a dealer in security futures products.

(b) A broker or dealer that is registered by notice with the Commission pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) and that is a member of either a national securities exchange registered pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)) or a national securities association registered pursuant to section 15A(a) of the Act (15 U.S.C. 78o-3(a)) will be exempt from the registration requirement of section 15(a)(1) of the Act (15 U.S.C. 78o(a)(1)) solely to act as a broker or a dealer in security futures products, if:

(1) The rules of any such exchange or association of which the broker or dealer is a member provides specifically for a broker or dealer that is registered by notice with the Commission pursuant to section 15(b)(11)(A) of the Act (15 U.S.C. 78o(b)(11)(A)) to become a member of such exchange or association; and

(2) The broker or dealer complies with section 11(a)-(c) of the Act (15 U.S.C. 78k(a)-(c)) with respect to any transactions in security futures products on a national securities exchange registered pursuant to section 6(a) of the Act (15 U.S.C. 78f(a)) of which it is

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a member, notwithstanding section 15(b)(11)(B)(ii) of the Act (15 U.S.C. 78o(b)(11)(B)(ii)).

[66 FR 45146, Aug 27, 2001]

§ 240.15b1-1 Application for registration of brokers or dealers.

(a) An application for registration of a broker or dealer that is filed pursuant to section 15(b) of the Act (15 U.S.C. 78o(b)) shall be filed on Form BD (§249.501 of this chapter) in accordance with the instructions to the form. A broker or dealer that is an OTC derivatives dealer shall indicate where appropriate on Form BD that the type of business in which it is engaged is that of acting as an OTC derivatives dealer.

(b) Every application for registration of a broker or dealer that is filed on or after January 25, 1993, shall be filed with the Central Registration Depository operated by the National Association of Securities Dealers, Inc.

(c) An application for registration that is filed with the Central Registration Depository pursuant to this section shall be considered a "report" filed with the Commission for purposes of Sections 15(b), 17(a), 18(a), 32(a) (15 U.S.C. 78o(b), 78q(a), 78r(a), 78ff(a)) and other applicable provisions of the Act.

(Secs. 15, 17, 48 Stat. 895, as amended, 897, as amended; 15 U.S.C. 78o, 78q)

[19 FR 1041, Feb. 24, 1954. Redesignated at 30 FR 11851, Sept. 16, 1965, and amended at 58 FR 14, Jan. 4, 1993; 63 FR 59397, Nov. 3, 1998; 64 FR 25147, May 10, 1999]

§ 240.15b1-2 [Reserved]

§ 240.15b1-3 Registration of successor to registered broker or dealer.

(a) In the event that a broker or dealer succeeds to and continues the business of a broker or dealer registered pursuant to section 15(b) of the Act, the registration of the predecessor shall be deemed to remain effective as the registration of the successor if the successor, within 30 days after such succession, files an application for registration on Form BD, and the predecessor files a notice of withdrawal from registration on Form BDW; *Provided, however*, That the registration of the predecessor broker or dealer will cease to be effective as the registration of the successor broker or dealer 45 days

after the application for registration on Form BD is filed by such successor.

(b) Notwithstanding paragraph (a) of this section, if a broker or dealer succeeds to and continues the business of a registered predecessor broker or dealer, and the succession is based solely on a change in the predecessor's date or state of incorporation, form of organization, or composition of a partnership, the successor may, within 30 days after the succession, amend the registration of the predecessor broker or dealer on Form BD to reflect these changes. This amendment shall be deemed an application for registration filed by the predecessor and adopted by the successor.

[58 FR 10, Jan. 4, 1993]

§ 240.15b1-4 Registration of fiduciaries.

The registration of a broker or dealer shall be deemed to be the registration of any executor, administrator, guardian, conservator, assignee for the benefit of creditors, receiver, trustee in insolvency or bankruptcy, or other fiduciary, appointed or qualified by order, judgment, or decree of a court of competent jurisdiction to continue the business of such registered broker or dealer; *Provided*, That such fiduciary files with the Commission, within 30 days after entering upon the performance of his duties, a statement setting forth as to such fiduciary substantially the information required by Form BD.

(Secs. 15, 17, 48 Stat. 895, as amended, 897 as amended; 15 U.S.C. 78o, 78q)

[19 FR 1041, Feb. 24, 1954. Redesignated at 30 FR 11851, Sept. 16, 1965]

§ 240.15b1-5 Consent to service of process to be furnished by nonresident brokers or dealers and by nonresident general partners or managing agents of brokers or dealers.

(a) Each nonresident broker or dealer registered or applying for registration pursuant to section 15(b) of the Securities Exchange Act of 1934, each nonresident general partner of a broker or dealer partnership which is registered or applying for registration, and each nonresident managing agent of any other unincorporated broker or dealer